

ANNEXURE

Land Acquisition (Just Terms Compensation) Act 1991 No 22

Current version for 31 January 2011 to date (accessed 16 October 2014 at 12:23)

[Part 1](#) > Section 3

<< page >>

3 Objects of Act

- (1) The objects of this Act are:
 - (a) to guarantee that, when land affected by a proposal for acquisition by an authority of the State is eventually acquired, the amount of compensation will be not less than the market value of the land (unaffected by the proposal) at the date of acquisition, and
 - (b) to ensure compensation on just terms for the owners of land that is acquired by an authority of the State when the land is not available for public sale, and
 - (c) to establish new procedures for the compulsory acquisition of land by authorities of the State to simplify and expedite the acquisition process, and
 - (d) to require an authority of the State to acquire land designated for acquisition for a public purpose where hardship is demonstrated, and
 - (e) to encourage the acquisition of land by agreement instead of compulsory process.
- (2) Nothing in this section gives rise to, or can be taken into account in, any civil cause of action.

Land Acquisition (Just Terms Compensation) Act 1991 No 22

Current version for 31 January 2011 to date (accessed 16 October 2014 at 12:24)

Part 1 > Section 10

<< page >>

10 Statement of guaranteed acquisition at market value

- (1) When, on request by or on behalf of an owner or prospective purchaser of land, an authority of the State gives a person written notice to the effect that the land is affected by a proposal for acquisition by the authority, the notice must contain the following:
 - (a) a statement that the *Land Acquisition (Just Terms Compensation) Act 1991* guarantees that, if and when the land is acquired by (*insert name of authority*) under that Act, the amount of compensation will not be less than market value (assessed under that Act) unaffected by the proposal,
 - (b) such other information as the regulations may require.
- (2) This section does not apply to a proposal to acquire an easement, or right to use land, under the surface for the construction and maintenance of works.
- (3) Nothing in this section or in a statement made in a notice pursuant to this section gives rise to, or can be taken into account in, any civil cause of action.

Land Acquisition (Just Terms Compensation) Act 1991 No 22

Current version for 31 January 2011 to date (accessed 16 October 2014 at 12:24)

[Part 3](#) > [Division 4](#) > Section 54

<< page >>

54 Entitlement to just compensation

- (1) The amount of compensation to which a person is entitled under this Part is such amount as, having regard to all relevant matters under this Part, will justly compensate the person for the acquisition of the land.
- (2) If the compensation that is payable under this Part to a person from whom native title rights and interests in relation to land have been acquired does not amount to compensation on just terms within the meaning of the Commonwealth Native Title Act, the person concerned is entitled to such additional compensation as is necessary to ensure that the compensation is paid on that basis.

Land Acquisition (Just Terms Compensation) Act 1991 No 22

Current version for 31 January 2011 to date (accessed 16 October 2014 at 12:24)

[Part 3](#) : [Division 4](#) - Section 55

<< page >>

55 Relevant matters to be considered in determining amount of compensation

In determining the amount of compensation to which a person is entitled, regard must be had to the following matters only (as assessed in accordance with this Division):

- (a) the market value of the land on the date of its acquisition,
- (b) any special value of the land to the person on the date of its acquisition,
- (c) any loss attributable to severance,
- (d) any loss attributable to disturbance,
- (e) solatium,
- (f) any increase or decrease in the value of any other land of the person at the date of acquisition which adjoins or is severed from the acquired land by reason of the carrying out of, or the proposal to carry out, the public purpose for which the land was acquired.

Land Acquisition (Just Terms Compensation) Act 1991 No 22

Current version for 31 January 2011 to date (accessed 16 October 2014 at 12:24)

[Part 3](#) > [Division 4](#) > Section 56

<< page >>

56 Market value

(1) In this Act:

market value of land at any time means the amount that would have been paid for the land if it had been sold at that time by a willing but not anxious seller to a willing but not anxious buyer, disregarding (for the purpose of determining the amount that would have been paid):

- (a) any increase or decrease in the value of the land caused by the carrying out of, or the proposal to carry out, the public purpose for which the land was acquired, and
 - (b) any increase in the value of the land caused by the carrying out by the authority of the State, before the land is acquired, of improvements for the public purpose for which the land is to be acquired, and
 - (c) any increase in the value of the land caused by its use in a manner or for a purpose contrary to law.
- (2) When assessing the market value of land for the purpose of paying compensation to a number of former owners of the land, the sum of the market values of each interest in the land must not (except with the approval of the Minister responsible for the authority of the State) exceed the market value of the land at the date of acquisition.

Top

Land Acquisition (Just Terms Compensation) Act 1991 No 22

Current version for 31 January 2011 to date (accessed 16 October 2014 at 12:25)

[Part 3](#) > [Division 4](#) > Section 57

<< page >>

57 Special value

In this Act:

special value of land means the financial value of any advantage, in addition to market value, to the person entitled to compensation which is incidental to the person's use of the land.

Land Acquisition (Just Terms Compensation) Act 1991 No 22

Current version for 31 January 2011 to date (accessed 16 October 2014 at 12:25)

[Part 3](#) \ [Division 4](#) \ Section 58

<< page >>

58 Loss attributable to severance

In this Act:

loss attributable to severance of land means the amount of any reduction in the market value of any other land of the person entitled to compensation which is caused by that other land being severed from other land of that person.

Land Acquisition (Just Terms Compensation) Act 1991 No 22

Current version for 31 January 2011 to date (accessed 16 October 2014 at 12:25)

Part 3 : Division 4 · Section 59

<< page >>

59 Loss attributable to disturbance

In this Act:

loss attributable to disturbance of land means any of the following:

- (a) legal costs reasonably incurred by the persons entitled to compensation in connection with the compulsory acquisition of the land,
- (b) valuation fees reasonably incurred by those persons in connection with the compulsory acquisition of the land,
- (c) financial costs reasonably incurred in connection with the relocation of those persons (including legal costs but not including stamp duty or mortgage costs),
- (d) stamp duty costs reasonably incurred (or that might reasonably be incurred) by those persons in connection with the purchase of land for relocation (but not exceeding the amount that would be incurred for the purchase of land of equivalent value to the land compulsorily acquired),
- (e) financial costs reasonably incurred (or that might reasonably be incurred) by those persons in connection with the discharge of a mortgage and the execution of a new mortgage resulting from the relocation (but not exceeding the amount that would be incurred if the new mortgage secured the repayment of the balance owing in respect of the discharged mortgage),
- (f) any other financial costs reasonably incurred (or that might reasonably be incurred), relating to the actual use of the land, as a direct and natural consequence of the acquisition.

Land Acquisition (Just Terms Compensation) Act 1991 No 22

Current version for 31 January 2011 to date (accessed 16 October 2014 at 12:25)

Part 3 : Division 4 : Section 60

<< page >>

60 Solatium

(1) In this Act:

solatium means compensation to a person for non-financial disadvantage resulting from the necessity of the person to relocate his or her principal place of residence as a result of the acquisition.

(2) The maximum amount of compensation in respect of solatium is:

- (a) except as provided by paragraph (b)—\$15,000, or
- (b) such higher amount as may be notified by the Minister by notice published in the Gazette.

(3) In assessing the amount of compensation in respect of solatium, all relevant circumstances are to be taken into account, including:

- (a) the interest in the land of the person entitled to compensation, and
- (b) the length of time the person has resided on the land (and in particular whether the person is residing on the land temporarily or indefinitely), and
- (c) the inconvenience likely to be suffered by the person because of his or her removal from the land, and
- (d) the period after the acquisition of the land during which the person has been (or will be) allowed to remain in possession of the land.

(4) Compensation is payable in respect of solatium if the whole of the land is acquired or if any part of the land on which the residence is situated is acquired.

(5) Only one payment of compensation in respect of solatium is payable for land in separate occupation.

(6) However, if more than one family resides on the same land, a separate payment may be made in respect of each family if:

- (a) the family resides in a separate dwelling-house, or
- (b) the Minister responsible for the authority of the State approves of the payment.

(7) If separate payments of compensation are made, the maximum amount under subsection (2) applies to each payment, and not to the total payments.

Land Acquisition (Just Terms Compensation) Act 1991 No 22

Current version for 31 January 2011 to date (accessed 16 October 2014 at 12:25)

[Part 3](#) > [Division 4](#) > Section 61

<< page >>

61 Special provision relating to market value assessed on potential of land

If the market value of land is assessed on the basis that the land had potential to be used for a purpose other than that for which it is currently used, compensation is not payable in respect of:

- (a) any financial advantage that would necessarily have been forgone in realising that potential, and
- (b) any financial loss that would necessarily have been incurred in realising that potential.